

Teresa M. Corbin (SBN 132360)
Christopher Kelley (SBN 166608)
Erik K. Moller (SBN 147674)
HOWREY SIMON ARNOLD & WHITE, LLP
301 Ravenswood Avenue
Menlo Park, California 94025
Telephone: (650) 463-8100
Facsimile: (650) 463-8400

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

SYNOPSYS, INC.,) Case No. C03-02289 MJJ (EMC)
Plaintiff,)
vs.) Case No. CV 03-04669 MJJ (EMC)
RICOH COMPANY, LTD.,)
Defendant.) DISCOVERY MATTER

RICOH COMPANY, LTD.,)
Plaintiffs,)
v.)
AEROFLEX INCORPORATED, AMI)
SEMICONDUCTOR, INC., MATROX)
ELECTRONIC SYSTEMS, LTD., MATROX)
GRAPHICS, INC., MATROX)
INTERNATIONAL CORP., and MATROX)
TECH, INC.,)
Defendants.)
)

Pursuant to instructions from Magistrate Judge Chen during a March 24 hearing, the parties met and conferred on several occasions to try to find common ground on a schedule for discovery. Certain agreements, outlined below, were reached. The parties were, however, unable to agree on the

1 form of a joint submission to the Court. Ricoh insisted, improperly in our view, on inserting
 2 complaints about the scope of Defendants' document production efforts and responses to requests for
 3 admission into what was supposed to be a joint submission concerning scheduling.

4 Despite the Defendants' repeated argument that the Court was seeking a plan that contained the
 5 parties' *agreements* on discovery, Ricoh's proposed "Discovery Plan"¹ is largely a motion to compel
 6 on a large number of discovery issues without a proper meet and confer process or briefing. A review
 7 of the transcript from the Court's March 24, 2004 hearing relevant to this matter shows that the Court
 8 was in fact responding to the Ricoh's lengthy complaint regarding its Rule 30(b)(6) depositions only:

9 In 30 days, I would expect an agreed upon plan, of both resolution of any issues
 10 that are currently outstanding with respect to these depositions, and the actual sort
 11 of discovery plan - at least by category if not by witnesses, et cetera. - some
 benchmark in terms of time, so we can see how we are doing.

12 Hearing Transcript from March 24, 2004, at 87:3-8.

13 This passage followed almost ten pages of discussion regarding the scope of Synopsys' and the
 14 Defendants' designation and production of Rule 30(b)(6) deponents. The Court did not order the
 15 parties to present what is in fact a motion to compel on the issues of document production,
 16 interrogatories, or requests for admissions.

17 The discovery disputes raised by Ricoh in the draft submissions that it has shared with counsel
 18 for Defendants raise disputed questions of fact about: i) what scope of discovery from Defendants is
 19 proper, and ii) the extent of which Defendants and Synopsys have produced responsive and relevant
 20 documents. The parties have been contending over the first question since last summer, and indeed the
 21 issues that Ricoh raises were originally presented in August of 2003 to Judge Sleet when this matter
 22 was pending in Delaware. The parties have argued at length in correspondence about what limits, if
 23 any, the Delaware Court placed on discovery, and what bounds are appropriate for discovery. The
 24 factual allegations raised by Ricoh in its draft submission are conclusory and provably false. Because

25
 26 ¹ Defendants and Synopsys have seen draft versions of Ricoh's proposed submission, and base these
 27 comments on that draft. We are, of course, unable to predict the form of the document that Ricoh will
 ultimately submit

1 of the sweeping nature of the allegations made by Ricoh and the complicated procedural history,
 2 Defendants intend to present substantial documentary evidence to rebut Ricoh's allegations. This
 3 matter is, therefore, not suited for resolution in a telephonic conference and Defendants' request that
 4 the Magistrate Judge set Ricoh's motion for full briefing and an in-person hearing.

5 Regarding scheduling of discovery, the parties were able to agree on the following:

6 (1) The parties agreed on an April 30, 2004 date for completion of document
 7 production, save for production of e-mails.

8 (2) The parties agreed on the following mechanical procedure for setting
 9 depositions. Defendants and Synopsys will designate witnesses and provide proposed dates for
 10 deposition on a rolling basis. At any given time, Defendants and Synopsys will make have set
 11 dates for some number "N" different witnesses. Within 10 days of completion of a deposition,
 12 Defendants and Synopsys will identify proposed dates for an at least one subsequent witness.
 13 The dates offered must fall within 40 days of the date of the previously completed deposition.

14 The parties will work cooperatively to stage deposition discovery in the order requested
 15 by Ricoh, to the extent possible.

16 (3) The parties agreed that Defendants and Synopsys will attempt to provide
 17 advance notification of the depositions of Ricoh personnel that it wishes to conduct and Ricoh
 18 will attempt to schedule those depositions within the United States.

19 (4) Defendants and Synopsys agreed to identify a first set of "N" deposition dates
 20 by May 15.

21 With respect to the scheduling of discovery, the following points of disagreement remained:

22 (a) With regard to paragraph 2, above, Ricoh contended that an appropriate number
 23 for "N" was 9. Defendants and Synopsys contend that this number should be 6.

24 (b) Defendants and Synopsys believe that the privilege logs should be completed
 25 by May 7. We do not expect that the Defendants e-mail production is likely to include any
 26 privileged communications, but should that be incorrect, we will supplement. We do not
 27 believe that preparation of Ricoh's privilege log should be fixed to the date for completion of
 28

1 production of any e-mail from the Defendants. Ricoh proposed that the party's exchange
2 privilege logs on a common date, set after production of the Defendants' e-mail.

3 (c) The parties disagreed about a suitable date for completion of production of any
4 relevant and responsive e-mail from Defendants. Defendants and Synopsys proposed May 31.
5 Ricoh proposed May 15 (in effect May 17, given the Calendar).

6 Dated: April 23, 2003

Respectfully submitted,

7 HOWREY SIMON ARNOLD & WHITE, LLP

9 By: /s/ Christopher L. Kelley
10 Attorneys for Plaintiff SYNOPSY, INC.
11 and Defendants AEROFLEX
INCORPORATED, ET AL.